

THE HONOURABLE SRI JUSTICE V. ESWARAI AH

WRIT PETITION No.1053 OF 2007

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DATED: 05-03-2007

BETWEEN

S. Sambasiva Rao, S/o. Venkatanarayana,
Occ: Cultivation, R/o. Chinna Agiripalli,
Agiripalli Mandal, Krishna District.

...PETITIONER

AND

The Superintendent of Police,
Krishna District at Machilipatnam
and others.

...RESPONDENTS

ORDER:

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This writ petition has been filed seeking a Writ of Mandamus to declare the action of the respondents 3 and 4 in interfering with the petitioner's civil rights directing him to handover the land measuring Ac.2.00 cents in R.S.No.193/3 situated at Singannagudem Village, Agiripalli Mandal, Krishna District to the fifth respondent as arbitrary and illegal and to consequently direct the respondents 1 and 2 to initiate action against the respondents 3 and 4 on the representation dated 28.12.2006 of the petitioner.

2. Petitioner submits that he made a representation dated 28.12.2006 before the Superintendent of Police stating that he has purchased the land in an extent of Ac.2.00 cents in R.S.No.193/3 from one Garapatti Venkateswara Rao and got registered thereafter.

It is stated that during 1997 one Simmagadda Nagaratnam

W/o. Subbarao and some others tried to encroach the said land.

They have also lodged a complaint, which was taken on file as S.C.No.1 of 2005 and the Special Court on 26.08.2006 dismissed the same. The said Nagarathanam and one Rammakka of Naxalite group tried to occupy the said land again, therefore, he has given a representation on 27.12.2006 to the Sub-Inspector of Police, but no action has been taken. On the other hand, the fourth respondent is illegally calling and making him sit in the police station and threatening him that he would book case against him under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. On the said report the Superintendent of Police directed the Sub-Divisional Police Officer, Nuzvid to enquire and report, but no enquiry has been conducted.

3. Counter has been filed stating that on the complaint of the fifth respondent dated 28.12.2006 a case was registered in Cr.No.105 of 2006 under Sections 447, 427, 506 read with Section 34 of the Indian Penal Code, 1860, and investigation was taken up. The petitioner and others, who are accused in the said crime, were arrested on 03.01.2007 and sent for judicial remand and later enlarged on bail and the investigation is pending. It is stated that the petitioner also filed a representation before the SP on 28.12.2006 making certain allegations against respondents 4 and 5, which was forwarded to the SDPO to conduct enquiry and submit a report. The SDPO accordingly conducted an enquiry and submitted a report stating that the disputes between the petitioner and the fourth respondent are purely civil in nature and the other allegations are found to be false and baseless and that the petitioner has to approach the civil Court in order to resolve the same. The other allegations that the third and fourth respondents detained him in police station have been denied. The other allegation that at the instance of the fifth respondent the official respondents are interfering with the civil rights over the said land has been denied and that the petitioner filed a private complaint before the Judicial Magistrate of First Class, Nuzvid, which was referred to police and based on which a case in Cr.No.9 of 2006

was registered and after investigation the complaint was referred as false on 24.07.2006. The petitioner also filed a private complaint based on which as a case in Cr.No.83 of 2006 was registered against the fifth respondent, which was also referred as civil in nature. Thus, there are allegations and counter allegations and the private complaints filed by the petitioner and the fifth respondent were enquired into and referred as civil in nature and only case pending against petitioner is Cr.No.105 of 2006. However, the respondents have categorically denied that they have not interfered with the civil rights of the petitioner.

4. In view of the said denial, whether really there was any interference with the civil rights of the petitioner is a disputed question of fact, which cannot be resolved in a writ petition. The relief sought by the petitioner cannot be granted.

The writ petition is accordingly dismissed with a liberty to the petitioner to take appropriate action before the civil Court as well as the criminal Court. There shall be no order as to costs.

March 5, 2007
DSK

V. ESWARAIAH, J